

minor personally carries out the farming activities with respect to the minor's farming operation for which there is a separate accounting; or

(2) Not live in the same household as such minor's parent and:

(i) Be represented by a court-appointed guardian or conservator who is responsible for the minor; and

(ii) Have ownership of the farm vested in the minor.

(c) A person shall be considered to be a minor until the age 18 is reached. Court proceedings conferring majority on a person under 18 years of age will not change such person's status as a minor.

§ 1400.107 States, political subdivisions, and agencies thereof.

A State, political subdivision and agencies thereof shall be considered to be one person.

§ 1400.108 Charitable organizations.

A charitable organization, including a club, society, fraternal or religious organization, shall be considered to be a separate person to the extent that such an entity is engaged in the production of crops as a separate person, except where the land or the proceeds from the farming operation may transfer to an entity that exercises control or authority over such organization.

§ 1400.109 Changes in farming operations.

Any change in a farming operation that would increase the number of persons to which the provisions of this part apply must be bona fide and substantive. If bona fide, the following shall be considered to be substantive changes in the farming operation:

(a) The addition of a family member to a farming operation in accordance with § 1400.208, except that such an addition will not affect the status of any other individual or entity that is added to the farming operation;

(b) With respect to a landowner only, a change from a cash rent to a share rent;

(c) An increase through the acquisition of cropland not previously involved in the farming operation of approximately 20 percent or more in the total cropland involved in the farming

operation, if such cropland has planting history of an amount at least normal for the area;

(d) A change in ownership by sale or gift of a significant amount of equipment from an individual or entity who previously has been engaged in a farming operation to an individual or entity who has not been involved in such operation. The sale or gift of equipment will be considered to be bona fide and substantive only if the transferred amount of such equipment is commensurate with the new individual's or entity's share of the farming operation;

(e) A change in ownership by sale or gift of a significant amount of land from an individual or entity who previously has been engaged in a farming operation to an individual or entity who has not been involved in such operation. The sale or gift of land will be considered to be substantive only if the transferred amount of such land is commensurate with the new individual's or entity's share of the farming operation.

Subpart C—Actively Engaged in Farming Determinations

§ 1400.201 General provisions for determining whether an individual or entity is actively engaged in farming.

(a) To be considered a person who is eligible to receive payments with respect to a particular farming operation, a person must be an individual or entity actively engaged in farming with respect to such operation.

(b) Actively engaged in farming means, except as otherwise provided in this part, that the individual or entity, independently makes a significant contribution to a farming operation, of:

(1) Capital, equipment, or land, or a combination of capital, equipment, or land; and

(2) Active personal labor or active personal management, or a combination of active personal labor and active personal management.

(c) In determining if the individual or entity is actively contributing a significant amount of active personal labor or active personal management the following factors shall be taken into consideration:

§ 1400.202

(1) The types of crops and livestock produced by the farming operation;

(2) The normal and customary farming practices of the area; and

(3) The total amount of labor and management necessary for such a farming operation in the area.

(d) In order to be considered to be actively engaged in farming an individual or entity specified in §§ 1400.202 through 1400.210 must have:

(1) A share of the profits or losses from the farming operation commensurate with the individual's or entity's contribution to the operation; and

(2) Contributions to the farming operation that are at risk.

§ 1400.202 Individuals.

An individual shall be considered to be actively engaged in farming with respect to a farming operation if the individual makes a significant contribution of:

(a) Capital, equipment, or land, or a combination of capital, equipment, or land; and

(b) Active personal labor or active personal management, or a combination of active personal labor and active personal management.

§ 1400.203 Joint operations.

(a) A member of a joint operation shall be considered to be actively engaged in farming with respect to a farming operation if the member makes a significant contribution of:

(1) Capital, equipment, or land or a combination of capital, equipment, or land; and

(2) Active personal labor or active personal management or a combination of active personal labor and active personal management.

(b) If a joint operation separately makes a significant contribution of capital, equipment, or land, or a combination of capital, equipment, or land, and the joint operation meets the provisions of § 1400.201(d), the members of the joint operation who make a significant contribution of active personal management, or a combination of active personal labor and active personal management to the farming operation shall be considered to be actively engaged in farming with respect to such farming operation.

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§ 1400.204 Limited partnerships, limited liability partnerships, limited liability companies, corporations and other similar entities.

A limited partnership, limited liability partnership, limited liability company, corporation, or other similar entity shall be considered to be actively engaged in farming with respect to a farming operation if:

(a) The entity separately makes a significant contribution to the farming operation of capital, equipment, or land, or a combination of capital, equipment, or land; and

(b) The partners, stockholders, or members collectively make a significant contribution, whether compensated or not compensated, of active personal labor, active personal management, or a combination of active personal labor and active personal management to the farming operation. The combined beneficial interest of all the partners, stockholders, or members providing active personal labor or active personal management, or a combination of active personal labor and active personal management must be at least 50 percent.

§ 1400.205 Trusts.

A trust shall be considered to be actively engaged in farming with respect to a farming operation if:

(a) The entity separately makes a significant contribution to the farming operation of capital, equipment, or land, or a combination of capital, equipment, or land;

(b) The income beneficiaries collectively make a significant contribution of active personal labor or active personal management, or a combination of active personal labor and active personal management to the farming operation. The combined interest of all the income beneficiaries providing active personal labor or active personal management, or a combination of active personal labor and active personal management must be at least 50 percent;

(c) The trust has provided a tax identification number of the trust unless the trust is a revocable trust and the grantor is the sole income beneficiary; and